

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**JESUS ORLANDO
MENDEZ-VELASQUEZ, *et al.*,**

Defendants.

No. 12-cr-30242-DRH

MEMORANDUM & ORDER

HERNDON, Chief Judge:

Now before the Court is the government's motion to reschedule trial setting of April 15, 2013 (Doc. 128). The government states that the Assistant United States Attorney assigned to this case is unavailable April 15, 2013. On this basis, the Court finds a new trial date is necessary. Thus, the Court **GRANTS** the government's motion to reschedule (Doc. 128). The jury trial is rescheduled from April 15, 2013 to **Monday, May 13, 2013, at 9:00.**

The Court again notes two co-defendants in this action have yet to be arraigned, as Jose Ivan Mejia-Chavez and Maria Guadalupe Diaz-Lucas remain fugitives. Further, no motion for severance of the remaining defendants has been filed or granted in this case, meaning all defendants adhere to the same Speedy Trial Act count. The Speedy Trial "clock" does not begin to run until the last co-


defendant is arraigned. Thus, in this case, as there are two fugitives, the 70-day window for conducting this trial has not yet begun under the Speedy Trial Act. See *United States v. Larson*, 417 F.3d 741, 745 n.1 (7th Cir. 2005) (“In the typical joint trial, the Speedy Trial clock begins when the last co-defendant is arraigned.”) (citing *United States v. Baskin-Bey*, 45 F.3d 200, 203 (7th Cir. 1995)); *Henderson v. United States*, 476 U.S. 321, 323 n.2 (1986); 18 U.S.C. § 3161(h)(6)); *United States v. Souffront*, 338 F.3d 809, 835 (7th Cir. 2003) (The Court found that the seventy-day clock commenced the day a fugitive-also the final co-defendant in the case- was arraigned). Thus, since the Speedy Trial clock has not begun to run, there is no need to account for excludable time due to trial delays, such as when a trial is continued.

Should any party believe that a witness will be required to travel on the Justice Prisoner and Alien Transportation System (JPATS) in order to testify at the trial of this case, a writ should be requested at least two months in advance. Further, the parties shall notify the Court if a change of plea hearing is necessary.

IT IS SO ORDERED.

Signed this 1st day of February, 2013.

Digitally signed by
David R. Herndon
Date: 2013.02.01
16:01:29 -06'00'



Chief Judge
United States District Court